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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/674,261	09/29/2003	Van Au	J6817(C)	1763

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UNILEVER  
PATENT DEPARTMENT  
45 RIVER ROAD  
EDGEWATER, NJ 07020

EXAMINER

ELHILO, EISA B

ART UNIT	PAPER NUMBER
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1751

DATE MAILED: 09/03/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b> 10/674,261	<b>Applicant(s)</b> AU ET AL.	
	<b>Examiner</b> Eisa B Elhilo	<b>Art Unit</b> 1751	

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

1) ☒ Responsive to communication(s) filed on 29 September 2003.

2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.

3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

4) ☒ Claim(s) 1-14 is/are pending in the application.

    4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.

5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.

6) ☒ Claim(s) 1-14 is/are rejected.

7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.

8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

9) ☐ The specification is objected to by the Examiner.

10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
     Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
     Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

    a) ☐ All    b) ☐ Some \*    c) ☐ None of:

        1. ☐ Certified copies of the priority documents have been received.

        2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.

        3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

    \* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

1) ☒ Notice of References Cited (PTO-892)

2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)

3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
 Paper No(s)/Mail Date 9/29/2003.

4) ☐ Interview Summary (PTO-413)  
 Paper No(s)/Mail Date. \_\_\_\_\_.

5) ☐ Notice of Informal Patent Application (PTO-152)

6) ☐ Other: \_\_\_\_\_.

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Claims 1-14 are pending in this application.

### DETAILED ACTION

#### *Claim Rejections - 35 USC § 103*

1 The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Casperson et al. (US 5,376,146) in view of Lapidus et al. (US 4,104,021) and further in view of Bugaut et al. (US 5,085,666).

Casperson (US' 146) teaches a method for dyeing hair. The method comprises the step of contacting the hair with a mixture of a two part aqueous composition of A) an alkaline aqueous containing from about 0.005% by weight to about 5% by weight of equimolar quantities of oxidation bases and couplers (see col. 11, lines 68 and col. 12, lines 1-3), alkalizing agent of ammonia derivatives, sodium carbonate or sodium bicarbonates in the amount of 0.1% to 5% (see col. 5, lines 12-32 and col. 11 Examples 1-40), 0.1% of a chelant agent of aminocarboxylic acid such as ethylenediaminetetracetic acid (EDTA), water as a cosmetically acceptable carrier and B) an aqueous developer (oxidizing agent) of hydrogen peroxide in the amount of 3 to 6% (see col. 11, Examples 1-40). The method further comprises the step of washing the composition from the hair with an ordinary water as claimed (see col. 10, lines 64-65). Casperson (US' 146) also teaches a kit for dyeing hair comprising the dyeing composition as described above (see col. 13, claims 5-8).

The instant claims differ from the reference by reciting a method for dyeing hair comprising applying to the hair a dyeing composition for a number of treatments having a set time interval between each two consecutive treatments and wherein the method comprises applying to the hair a dyeing composition comprising a water-soluble ammonium carbonate or carbamate salt.

However, the reference clearly teaches that any other compatible ammonia derivatives or inorganic alkalizing agents such as sodium or potassium carbonates can be used as alkalizing agents in the hair dyeing composition (see col. 5, lines 15-25).

Lapidus (US' 021) in analogous art of hair dyeing processes, teaches a process for dyeing hair comprising applying to the hair a mixture of a colorant-oxidative solution in successive applications for a time period up to 5 minutes and of substantially the same length for each subsequent application and wherein the application can be repeated once every 2 to 8 weeks and wherein the process comprising the instruction for use the dyeing composition as claimed (see col. 4, lines (see col. 4, lines 45-63 and col.7, claim 1).

Bugaut et al. (US' 666) teaches in other analogous art of hair dyeing formulation, a composition comprising alkalizing agents of sodium carbonate, potassium carbonate and ammonium carbonate (see col. 44-45).

Therefore, in view of teachings of the secondary references, one having ordinary skill in the art at the time the invention was made would be motivated to modify the composition of the primary reference by replacing sodium carbonate with ammonium carbonate as an alkalizing agent as taught by Bugaut and to use this composition in a process for dyeing hair that involves successive applications of a dyeing composition as taught by Lapidus with reasonable

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expectation of success. Such a modification would be obvious because Bugaut clearly teaches the equivalence between sodium carbonate and ammonium carbonate as alkalizing agents in the hair dyeing composition and Lapidus clearly teaches that dyeing hair with successive applications of dyeing composition in a short time period provided a deeper shades (see col. 2, lines 65-68 and col. 3, lines 1-4), and, thus, a person of ordinary skill in the art would be motivated to apply the dyeing composition that comprises alkalizing agent of ammonium carbonate by using a successive applications to obtain a deeper shades of color and would expect such a process to have similar properties and similar results to those claimed, absent unexpected results.

With respect to claims 5, 8, 13 and 14, it would have been obvious to one having ordinary skill in the art at the time the invention was made to apply such a composition by optimizing the ratio of the dyeing ingredients in the composition in order to get the maximum effective amount and would expect such a composition to have similar properties to those claimed in the absence of contrary.

With respect to claim 6, it would have been obvious to one having ordinary skill in the art at the time the invention was made to contact the hair with the dyeing composition for a period of the claimed time because Lapidus teaches the application for a time period up to 5 minutes, which is a very short time period by conventional dyeing standards as taught by the reference (see col. 4, lines 47-49) and wherein the time period range is overlapping with the claimed range, and, thus, a person of the ordinary skill in the art would expect such a method to have similar properties and similar results to those claimed, absent unexpected results.

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With respect to claim 7, it would have been obvious to one having ordinary skill in the art at the time the invention was made to apply to the hair a dyeing composition in a number of treatments because Lapidus clearly teaches that the application of the dyeing composition to the hair can be repeated more than three times (see col. 4, lines 45-63), and thus, a person of the ordinary skill in the art would be motivated to apply the dyeing composition to the hair in several treatments including the claimed number of treatments, and would expect such a method to have similar properties and similar results to those claimed, absent unexpected results.

### *Conclusion*

The references listed on from 1449 have been reviewed by the examiner and are considered to be cumulative to or less material than the prior art references relied upon in the rejection above.


Any inquiry concerning this communication or earlier communications from the examiner should be directed to Eisa B Elhilo whose telephone number is (571) 272-1315. The examiner can normally be reached on M - F (8:00 -5:30) with alternate Friday off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Yogendra Gupta can be reached on (571) 272-1316. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the

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Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

A handwritten signature in black ink, appearing to read "Eisa Elhilo".

Eisa Elhilo  
Patent Examiner  
Art Unit 1751

August 28, 2004